

## ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

## IN THE MATTER OF:

CEDAR CHEMICAL CORPORATION,  
WEST HELENA, ARKANSAS  
ARD990660659

No. LIS-91-118

## AMENDED CONSENT ADMINISTRATIVE ORDER

JURISDICTION

1. This Amended Consent Administrative Order is entered pursuant to authority of the Arkansas Department of Pollution Control & Ecology ("ADPC&E") under the Arkansas Remedial Action Trust Fund Act ("ARATFA"), Ark. Code Ann. § 8-7-508, as currently amended; the Arkansas Hazardous Waste Management Act ("AHWMA"), Ark. Code Ann. § 8-7-214; and the Arkansas Hazardous Waste Management Code (the "Code"). All terms contained within this document shall have the definitions as found in the above-referenced laws, unless the context plainly indicates otherwise.

2. The original Consent Administrative Order in this cause was approved for entry by the Director of the ADPC&E on July 11, 1991, and became effective July 12, 1991. Cedar Chemical Corporation ("Cedar") is the current owner and operator of the subject facility.

3. Paragraph 10.c of the original Consent Administrative Order contemplated the possibility that interim measures (in addition to implementation of the Removal Plan referred to in Paragraph 10.a) could be required pending completion of the Facility Investigation and Corrective Measures Study required under the terms of the original Consent Administrative Order.

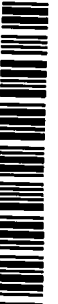
STATEMENT OF PURPOSE

4. By entering into this Amended Consent Administrative Order, the mutual objectives of ADPC&E and Cedar are to remove buried drums and contaminated soil believed to be located at two separate locations on the subject Site and to carry out a closure of such burial areas in accordance with the Supplemental Removal Work Plan attached as Exhibit 1 to this Amended Consent Administrative Order.

PARTIES

5. Unless further amended, the original Consent Administrative Order shall continue to be binding upon ADPC&E and Cedar. The terms of this Amended Consent Administrative Order shall be binding upon both ADPC&E and Cedar, and their respective successors and assigns, with the obligations of such parties

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being specified herein. This Amended Consent Administrative Order shall control the work of all persons, agents, contractors and technical consultants acting under or for ADPC&E or Cedar in carrying out the actions required hereunder.

6. Each contractor, subcontractor, laboratory and technical consultant retained to conduct any portion of the work performed pursuant to this Amended Consent Administrative Order shall be provided with a copy of the Amended Consent Administrative Order prior to said contractor's, subcontractor's, laboratory's or consultant's initiation of work conducted hereunder.

7. Any contract entered into for the purpose of carrying out any actions required by this Amended Consent Administrative Order shall incorporate the requirements hereof pertaining to the work to be performed or services or materials to be supplied.

#### SUPPLEMENTAL FINDINGS OF FACT

8. Based on available information regarding the Site, ADPC&E makes the following supplemental findings of fact:

a. Substantial quantities of dinitrobutylphenol, also known as dinoseb, were manufactured on the Site from approximately January 1972 through July 1972.

b. There is evidence that third parties unrelated to Cedar, who operated, managed, and controlled the Site prior to Cedar's acquisition of the Site and during the period of dinoseb production, may be liable persons under ARATFA, and ADPC&E is currently investigating those facts.

c. There is evidence indicating that two additional drum burial areas, in addition to the one identified in the Removal Work Plan approved under the original Consent Administrative Order, may exist on the Site, and that these areas may have been used late in 1972 for the burial of dinoseb products and other materials.

d. ADPC&E and Cedar agree that the measures specified in the Supplemental Removal Work Plan attached as Exhibit 1 should be undertaken expeditiously. Subject to the reservation of rights contained in paragraph 12 below, Cedar has expressed its willingness to proceed immediately with the remedial actions contemplated hereunder.

#### CONCLUSIONS OF LAW

9. Based upon the foregoing supplemental findings of fact, the Director, ADPC&E, makes the following supplemental conclusions of law:

a. Performance of its obligations under this Amended Consent Administrative Order shall make Cedar eligible under Ark. Code Ann. § 8-7-520 to seek contribution from any third person not a party to this Amended Consent Administrative Order who may be a liable party.

#### DETERMINATION

10. Based upon the foregoing supplemental findings of fact and conclusions of law, the Director, ADPC&E, has determined that:

a. There is a threat of release of a hazardous substance at the additional drum burial areas referred to herein.

b. It is necessary that the drums and any contaminated soil located in the additional drum burial areas referred to herein be removed from the Site and properly disposed of in a manner consistent with the Supplemental Removal Work Plan attached as Exhibit 1.

c. The actions agreed upon under the terms of this Amended Consent Administrative Order are in the public interest, are consistent with the National Oil and Hazardous Substances Contingency Plan, 40 C.F.R. § Part 300, and are necessary to protect the public, health, welfare and the environment.

#### ORDER

11. IT IS THEREFORE AGREED AND ORDERED by consent of Cedar and ADPC&E as follows:

#### Additional Interim Measures

a. As an additional interim measure to achieve the purposes of the original Consent Administrative Order and the purposes of this Amended Consent Administrative Order, Cedar shall, promptly following the effective date of this Amended Consent Administrative Order, retain a qualified contractor or contractors to excavate the additional suspected drum disposal areas and remove all contaminated soil, debris and drums for offsite disposal, all in accordance with the Supplemental Removal Work Plan attached as Exhibit 1.

b. Within sixty (60) days after completion of the Supplemental Removal Work Plan, Cedar shall submit to ADPC&E a detailed written report describing the activities undertaken to complete said plan, including all necessary and appropriate certifications and supporting information

which is reasonably necessary for ADPC&E to evaluate and approve such report.

RESERVATION OF RIGHTS

12. Nothing in the original Consent Administrative Order or this Amended Consent Administrative Order shall be deemed to be a determination that Cedar is primarily or principally liable for the remedial actions taken by Cedar thereunder. Cedar's cooperation with ADPC&E to expedite implementation of these remedial measures, despite the lack of cooperation or participation by other liable parties, shall not prejudice in any way Cedar's rights to recover from any other liable parties the remedial costs it has expended pursuant to the orders.

13. Nothing in the original Consent Administrative Order or this Amended Consent Administrative Order shall limit ADPC&E's authority to join additional respondents, with or without their consent, for the purpose of subjecting other liable parties to the terms of the order. The remedial measures taken under this order are interim measures. ADPC&E reserves the right to seek or order additional remedial action from any liable person.

IT IS SO AGREED AND ORDERED.

DATE: 3/19/92

CEDAR CHEMICAL CORPORATION

By: Macella J. J. J.

DATE: \_\_\_\_\_

DIRECTOR, ARKANSAS DEPARTMENT  
OF POLLUTION CONTROL & ECOLOGY

SUPPLEMENTAL REMOVAL WORK PLANBACKGROUND

As reported by letter from Cedar to ADPC&E dated February 24, 1992, it was learned in the course of discovery depositions taken in Cedar's suit for contribution and cost recovery against Wormald U.S., Inc., pending in the Chancery Court of Phillips County, that an additional drum burial area used for disposal of dinoseb products in 1972 may exist adjacent to the first burial area referred to in the CAO. Cedar retained GSI to carry out a geophysical survey, and as a result, two anomalies were located which are believed to be separate drum burial sites identified in site map attached hereto.

ITEMS TO BE ADDRESSED

ITEM NO. 1 - Add a section numbered 3.4 and titled "Stormwater Runoff Protection".

Both areas will be surrounded with a one foot high earthen berm. Access lanes for equipment will be re-bermed when the crew is not working. One hole is near a drainage channel for stormwater runoff, so any other precautions deemed necessary will be instituted as the situation warrants. Any water that may accumulate in either excavation area as a result of storm water runoff or rainfall will immediately be pumped into the DCA Unit Sump for transfer to Respondent's Biological Treatment System.

ITEM NO. 2 - Soil analysis, removal and disposal topics in the original work plan discussed the soil adjacent to the drums, but did not consider disposal of the overburden (see section 5.2). In order to adequately determine if the overburden can be sent to a Subtitle C landfill, or used as backfill, the following sampling/analysis program will be used. Figure 2 has been modified to reflect the new sites. This item should be added as section 5.2.1 and titled "Characterization of the Overburden":

Anomaly number 1 (northwest) - Three bore holes were spaced fifteen apart over the anomaly. Cores were sampled at one foot intervals down to five feet. The three borehole samples from the one-foot depth have been composited. The same was done with the samples from the two-foot and four-foot depths.

Two of the three bore holes in anomaly number 1 struck what appeared to be an old gravel road or parking lot surface at a depth of five feet. It is known that the elevation of this area of the plant was raised by fill being brought in from off site beginning in 1973. It is assumed, therefore, that the first five feet of soil beneath the present surface is fill on top of the 1972 surface. The drums are believed to have been buried in 1972.

EXHIBIT 1

The three composite soil samples from the upper four feet will be analyzed for dinoseb by ENRAC's laboratory. Methods 8270 (total semi-volatiles) and 8240 (total volatiles) will also be applied. This information, along with generator knowledge, will be used to determine if this portion of the overburden can go to landfill, or if it can be used to backfill the hole.

A sample already collected from the area near the top of the buried drums will be analyzed, using the above methods, in order to determine the status of the interval from four to ten feet deep. Experience from the previous removal showed that the area nearest the top of the drums was the most contaminated. Based on observations during collection of this ten foot deep sample, Cedar is assuming that the four to ten foot deep interval will have to be disposed of, and that this sample is more representative of the interval.

Anomaly number 2 (north central) - The same procedures will be used hereto determine the status of the overburden as were used for anomaly number 1.

The buried gravel layer encountered over anomaly 1 is present here, but at a depth of three feet. The nine samples from the three boreholes have been composited from the one-foot, two-foot and three-foot depths as was done for anomaly 1. A sample from the area near the top of the drums will also be analyzed as explained above, and will be used to classify the overburden interval below three feet.

NOTE: Upon receipt of these sample analyses, they will immediately be delivered to the ADPC&E - Hazardous Waste Division.

ITEM NO. 3 - Add a section numbered 5.5.6 and titled "Unknowns".

If unknown substances are encountered during the course of the excavations, further lab analysis will be conducted prior to the removal/disposal of this material. If it is necessary to temporarily stage this material on-site, roll-off, or other similar containers will be used.

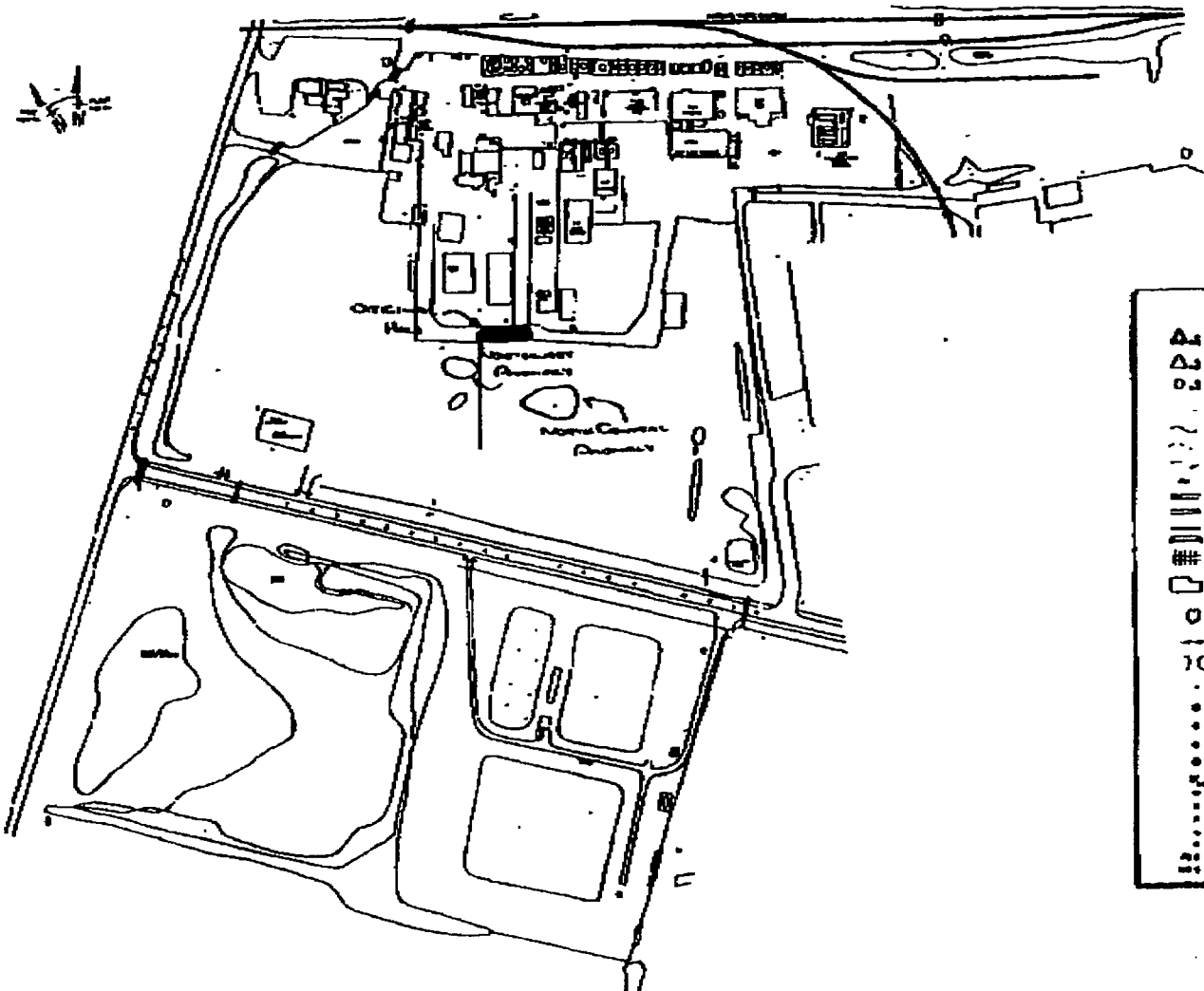
ITEM NO. 4 - Add section number 6.2.1 and titled "Sample Location Notification".

Cedar will notify ADPC&E - Hazardous Waste Division, no less than five days prior to taking the closure samples. This is for the purpose of allowing the division representative to be able to acquire these samples for the division's use, and to observe the sampling procedure. It is understood that if said representative is not present at the announced time, Cedar has the division's approval to proceed with the collection of our samples.

Backfilling of the hole will not begin until the sample analysis is complete and the results are confirmed.

ITEM NO. 5 - Add a section numbered 6.3 and titled "Final Closure Sample Analysis".

Prior to closure of the holes, the samples taken from the grid referred to in Section 6.2 will be sent to an independent laboratory for analysis. It is understood that the 80 ppm dinoseb-in soil contamination level referred to in the original Work Plan is a health-based standard for closure, and that the level required for clean closure may be different. This issue will be determined in connection with the selection of final corrective measures.



LEGEND

[Symbol]	Building
[Symbol]	Parking Space
[Symbol]	Road
[Symbol]	Driveway
[Symbol]	Property Line
[Symbol]	Water Feature
[Symbol]	Other

0501 688 8817

NO.	DATE	DESCRIPTION
1	03/18/92	Site Plan
2	03/18/92	Site Plan
3	03/18/92	Site Plan
4	03/18/92	Site Plan
5	03/18/92	Site Plan

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Figure 2



Wormald U.S., Inc.  
c/o Corporation Trust Co.  
1209 Orange  
Wilmington, DE 19801

Re: Cedar Chemical Company Site; West Helena, Arkansas

Dear Sirs:

A chemical manufacturing facility in West Helena, Arkansas that is currently owned and operated by Cedar Chemical Corporation ("the Site") is the subject of remedial actions to remove hazardous substances, including hazardous substances related to the manufacture and disposal of dinitrobutylphenol ("dinoseb") at the plant site. These remedial actions are being taken by the current Site owner, Cedar Chemical Corporation, pursuant to a consent administrative order and an amended consent administrative order issued under the Arkansas Hazardous Substance Remedial Action Trust Fund Act ("ARATFA"). In the Matter of: Cedar Chemical Corporation, West Helena, Arkansas, No. LIS 91-118.

The Department has received information which indicates that Wormald U.S., Inc., as successor to The Ansul Company, is a person liable for costs of remedial actions at the Site under ARATFA, ACA § 8-7-512. Specifically, we have received information indicating that in 1972 the Site was operated, managed and controlled by The Ansul Company acquired title to all inventories of raw materials and finished goods located on the Site as of November 15, 1972; and that the Site was seriously contaminated as a result of manufacturing operations and practices on the Site in 1972. Pursuant to authority granted the Department under ACA § 8-7-511(a), the Department requests Wormald U.S., Inc. to furnish the following information within thirty (30) days from the date of this letter:

1. Describe all past and present relationships between and among Wormald U.S., Inc., The Ansul Company and/or Eagle River Chemical Corporation.
2. Identify all persons known to you who may have knowledge, information or documents about the generation, use, storage, disposal or handling of dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums at the Site.
3. Identify all persons, including employees, agents or contractors of Wormald U.S., Inc., The Ansul Company or Eagle River Chemical Corporation who may have disposed of or arranged for the disposal of dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums at the Site.

Wormald U.S., Inc.  
March 19, 1992  
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4. Did Wormald U.S., Inc., The Ansul Company or Eagle River Chemical Corporation dispose of dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums at any place in Arkansas other than the Site?

5. If the answer to question no. 4 above is yes, identify all places in Arkansas other than the Site where Wormald U.S., Inc., The Ansul Company or Eagle River Chemical Corporation disposed of dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums and for each such disposal, identify the date(s) of the disposal and the transporter(s) used to transport the dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums to the other Arkansas disposal site.

6. Identify, as precisely as possible, any and all of the locations at the Site at which Wormald U.S., Inc., The Ansul Company or Eagle River Chemical Corporation disposed of dinoseb, drums containing dinoseb, waste containing dinoseb or crushed drums.

7. Do you know the final disposition of all dinoseb manufactured at the Site during the period the Site was managed or controlled by The Ansul Company or Eagle River Chemical Corporation, including all dinoseb or other substances acquired from Eagle River Chemical Corporation by the Ansul Company? If so, describe in detail, including the dates and places of, all final dispositions.

8. Do you know if any containers containing dinoseb were disposed of at the Site? If so, describe the type, condition and number of containers in which dinoseb was contained when it was disposed of at the Site; including, if possible, any labels, numbers or other markings on the containers.

9. Do you know if any containers containing dinoseb were disposed of at any place in Arkansas other than the Site? If so, describe the type, condition and number of containers in which dinoseb was contained when it was disposed of at places in Arkansas other than the Site, including, if possible, any labels, numbers or other markings on the containers.

10. Provide all documents which support any of your responses to questions nos. 1 through 9.

Wormald U.S., Inc.  
March 19, 1992  
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Please be advised that you are required by ARATFA to provide the information requested herein. Violations of the Act are punishable by civil penalties up to twenty-five thousand dollars (\$25,000) per day for each day of any violation as well as criminal prosecution.

Information and documents provided in response to this letter must be delivered to Arkansas Department of Pollution Control and Ecology within thirty (30) days from the date of this letter and should be delivered to:

Steve Weaver  
Chief Counsel  
Arkansas Department of Pollution  
Control & Ecology  
P.O. Box 8913  
Little Rock, Arkansas 72219

Sincerely,

Randall Mathis  
Director

cc: Mr. Peter Flemister, Esq.  
Allied Tube & Conduit Company  
16100 Lanthrop Ave.  
Harvey, IL 60624